

1 DANIEL M. PETROCELLI (S.B. #97802)
dpetrocelli@omm.com
2 ALAN RADER (S.B. #45789)
arader@omm.com
3 VICTOR JIH (S.B. #186515)
vjih@omm.com
4 JUSTIN M. GOLDSTEIN (S.B. #198858)
jgoldstein@omm.com
5 O'MELVENY & MYERS LLP
1999 Avenue of the Stars, 7th Floor
6 Los Angeles, CA 90067-6035
Telephone: (310) 553-6700
7 Facsimile: (310) 246-6779

8 Attorneys for Counter-Defendants
9 DISNEY ENTERPRISES, INC., THE WALT
DISNEY COMPANY, AND WALT DISNEY
PRODUCTIONS

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

13 CLARE MILNE, an individual, by
14 and through MICHAEL JOSEPH COYNE, her RECEIVER, and
DISNEY ENTERPRISES, INC.

Plaintiffs,

V.

STEPHEN SLESINGER, INC.,

Defendant.

21 STEPHEN L. GLEISIGER, INC.

22 GENE CLAIMENT

25

24 DISNEY ENTERPRISES, INC.;
25 THE WALT DISNEY COMPANY;
26 and WALT DISNEY
PRODUCTIONS,

27 Counter-Defendants.

Case No. CV-02-08508 FMC (PLAx)

**COUNTER-DEFENDANTS DISNEY
ENTERPRISES, INC., THE WALT
DISNEY COMPANY, AND WALT
DISNEY PRODUCTIONS' NOTICE
OF MOTION AND MOTION FOR
SUMMARY JUDGMENT OR, IN
THE ALTERNATIVE, FOR
SUMMARY ADJUDICATION OF
COUNTER-CLAIMANT STEPHEN
SLESINGER, INC.'S
COUNTERCLAIMS**

The Hon. Florence-Marie Cooper

Date: June 9, 2008
Time: 10:00 a.m.
Place: Courtroom 750

1 TO COUNTER-CLAIMANT AND ITS COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that on June 9, 2008, at 10:00 a.m., or as soon
3 thereafter as counsel may be heard by the above-entitled court, located at 255 East
4 Temple Street, Los Angeles, California in Courtroom 750, Counter-Defendants
5 Disney Enterprises, Inc., The Walt Disney Company, and Walt Disney Productions
6 (collectively, "Disney") will and hereby do move for an order pursuant to Federal
7 Rule of Civil Procedure 56 for summary judgment or, in the alternative, for
8 summary adjudication, of Counter-Claimant Stephen Slesinger, Inc.'s ("SSI")
9 counterclaims:¹

Counterclaim	Principal Grounds for Dismissal
1. Copyright Infringement	Fails to Establish Claim for Relief (<i>see</i> accompanying Memorandum of Points and Authorities (“Brief”) at pp. 23-29, 31-32)
2. Trademark Infringement	Fails to Establish Claim for Relief (<i>see</i> Brief at pp. 23-31)
3. Trade Dress Infringement	Fails to Establish Claim for Relief (<i>see</i> Brief at pp. 23-31)
4. Breach of Contract	Precluded under Res Judicata and Collateral Estoppel (<i>see</i> Brief at pp. 8-22, 32)
5. Breach of Implied Covenant of Good Faith & Fair Dealing	Precluded under Res Judicata and Collateral Estoppel; Fails to Establish Claim for Relief (<i>see</i> Brief at pp. 8-22, 32)

¹ This Court dismissed SSI's Eighth (Declaratory Relief re: Invalidity of Hunt Termination Notice), Ninth (Declaratory Relief re: Invalidity of Reversion Agreement), and Eleventh (Declaratory Relief re: Limited Scope of Hunt Notice) Counterclaims as moot on March 7, 2007.

6. Fraud	Precluded under Res Judicata and Collateral Estoppel (<i>see Brief at pp. 8-22</i>)
7. Declaratory Relief re: 1983 Agreement	Precluded under Res Judicata and Collateral Estoppel (<i>see Brief at pp. 8-22</i>)
10. Injunctive Relief	Not Proper Claim for Relief (<i>see Brief at p. 34</i>)
12. Unfair Competition	Fails to Establish Claim for Relief (<i>see Brief at pp. 32-34</i>)

This motion is made following the conference of counsel on March 3, 2008 and the subsequent exchange of letters on March 13, 2008 and March 14, 2008 pursuant to Central District Local Rule 7-3.

This motion is based on this Notice of Motion and Motion, the accompanying Memorandum of Points and Authorities, the Declaration of Justin M. Goldstein, the Statement of Uncontroverted Facts and Conclusions of Law, all exhibits, files, and records on file in this action, matters of which judicial notice may be taken, and such additional submissions and arguments as may be presented at or before the hearing on this motion.

Dated: April 21, 2008

Respectfully submitted,

O'MELVENY & MYERS LLP

By:

By: Daniel M. Petrocelli
Attorneys for Counterclaim-Defendants
Disney Enterprises, Inc., The Walt
Disney Company, and Walt Disney
Productions